

## **DETAILED ACTION**

### ***Ex Parte Quayle***

The finality of the rejection of the last Office action is *withdrawn* upon further consideration by the Examiner. Please see Reasons for Allowance and the attached interview summary. This application is in condition for allowance except for the following formal matters.

### ***Sequence Rules***

It is noted that Figure 4 of the Drawings includes numerous sequences without sequence identifiers. This is not in compliance with CFR § 1.821 (Nucleotide and/or amino acid sequence disclosures in patent applications), which requires that any sequence of four or more amino acids or ten or more nucleotides have a sequence identifier (i.e. SEQ ID NO: X). Please also see the attached PTO-90C and Revised Notch to Comply.

### **Drawings**

The drawings are objected to because the instant drawings do not comply with 37 C.F.R. § 1.84(U)(1), which states that partial views of a drawing which are intended to form one complete view, whether contained on one or several sheets, must be identified by the same number followed by a capital letter. Figure 4 of the instant application, for example, is

presented on 2 separate panels. The 2 total sheets of drawings for Figure 4 should be renumbered "Figures 4A-4B".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Applicant is reminded that once the drawings are changed to meet the separate numbering requirement of 37 C.F.R. 1.184(U)(1), Applicant is required to file an amendment to change the Brief Description of the Drawings and the rest of the specification accordingly.

**Inventorship**

In view of the papers filed 5 May 2009, the inventorship in this nonprovisional application has been changed by the deletion of Jill Reiter.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

### ***Reasons for Allowance***

The Examiner erroneously interpreted the Request for the Change of Inventorship as filed under 37 CFR 1.48(a), however the request was filed under 37 CFR 1.48(b), therefore there is no requirement for a statement from each person being deleted that the error in inventorship occurred without deceptive intention from the deleted inventors. The Request for Change of Inventorship is proper and sufficient. As indicated in the previous Office action at p. 6, the only outstanding issue preventing withdrawal of the rejections was perfection of the Request for Change of Inventorship and as this has been resolved, the rejections made under 35 U.S.C. 103(a) and Obviousness type Double Patenting are hereby withdrawn.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Claims 18-32 contain allowable subject matter.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Borgeest whose telephone number is (571)272-4482. The examiner can normally be reached on 9:00am - 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Stucker can be reached on 571-272-0911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christina Borgeest

/Bridget E Bunner/  
Primary Examiner, Art Unit 1647